

completed after April 12, 1999. This calculation will include all 7(a) loans which are outstanding and were approved in any fiscal year prior to SBA's current fiscal year. Each quarter, SBA will compare each securitizer's Currency Rate to its ICR.

(h) *Initial Currency Rate Percentage*—The Initial Currency Rate Percentage (ICRP) measures the relationship between a securitizer's Initial Currency Rate and the SBA 7(a) loan portfolio Currency Rate at the time of the first securitization after April 12, 1999. The ICRP is calculated by dividing the securitizer's Currency Rate by the SBA 7(a) loan portfolio Currency Rate. SBA will calculate the securitizer's ICRP as of the end of the calendar quarter immediately prior to the first securitization completed after April 12, 1999.

(i) *Loss Rate*—A securitizer's "loss rate," as calculated by SBA, is the aggregate principal amount of the securitizer's 7(a) loans determined uncollectable by SBA for the most recent 10-year period, excluding SBA's current fiscal year activity, divided by the aggregate original principal amount of 7(a) loans disbursed by the securitizer during that period.

(j) *Nondepository Institution*—A "non-depository institution" is a Small Business Lending Company ("SBLC") regulated by SBA or a Business and Industrial Development Company ("BIDCO") or other nondepository institution participating in SBA's 7(a) program.

(k) *Securitization*—A "securitization" is the pooling and sale of the unguaranteed portion of SBA guaranteed loans to a trust, special purpose vehicle, or other mechanism, and the issuance of securities backed by those loans to investors in either a private placement or public offering.

**§ 120.421 Which Lenders may securitize?**

All SBA participating Lenders may securitize subject to SBA's approval.

**§ 120.422 Are all securitizations subject to this subpart?**

All securitizations are subject to this subpart. Until additional regulations are promulgated, SBA will consider

securitizations involving multiple Lenders on a case by case basis, using the conditions in § 120.425 as a starting point. SBA will consider securitizations by affiliates as single Lender securitizations for purposes of this subpart.

**§ 120.423 Which 7(a) loans may a Lender securitize?**

A Lender may only securitize 7(a) loans that will be fully disbursed within 90 days of the securitization's closing date. If the amount of a fully disbursed loan increases after a securitization settles, the Lender must retain the increased amount.

**§ 120.424 What are the basic conditions a Lender must meet to securitize?**

To securitize, a Lender must:

- (a) Be in good standing as determined by the Associate Administrator for Financial Assistance (AA/FA);
- (b) Use a securitization structure which is satisfactory to SBA;
- (c) Use documents acceptable to SBA, including SBA's model multi-party agreement, as amended from time to time;
- (d) Obtain SBA's written consent, which it may withhold in its sole discretion, prior to executing a commitment to securitize; and
- (e) Cause the original notes to be stored at the FTA, as defined in § 120.600, and other loan documents to be stored with a party approved by SBA.

**§ 120.425 What are the minimum elements that SBA will require before consenting to a securitization?**

A securitizer must comply with the following three conditions:

- (a) *Capital Requirement*—All securitizers must be considered to be "well capitalized" by their regulator. SBA will consider a depository institution to be in compliance with this section if it meets the definition of "well capitalized" used by its bank regulator. SBA's capital requirement does not change the requirements that banks already meet. For nondepository institutions, SBA, as the regulator, will consider a non-depository institution to be "well capitalized" if it maintains a minimum unencumbered paid